

The Honorable Tom Vilsack
Secretary
U.S. Department of Agriculture
1400 Independence Ave., S.W.
Washington, DC 20250

Dear Secretary Vilsack:

I have today referred to the Council on Environmental Quality the proposal by the Department of Agriculture's U.S. Forest Service to issue a Plan of Operations to Rosemont Copper Company for the Rosemont Copper Mine, Pima County, Arizona. Enclosed is a copy of my letter to Council Chair Sutley.

Section 309(b) of the Clean Air Act requires that the EPA Administrator refer to the Council on Environmental Quality any matter pertaining to her duties and responsibilities that she determines to be "unsatisfactory from the standpoint of public health, welfare or environmental quality...." As my letter to the Council states, EPA believes that Agriculture's proposed issuance of the Rosemont Copper Mine Plan of Operations would result in unsatisfactory environmental results.

The preferred action identified in the Final Environmental Impact Statement and draft Record of Decision would authorize the construction, operation and closure of the Rosemont Copper Mine "Barrel Alternative", with associated infrastructure on approximately 3,655 acres of National Forest System land, 1,200 acres of private land owned by Rosemont Copper, and 575 acres of Arizona State Land Department land. The project includes an open pit mine, waste rock disposal areas, ore processing facilities, tailings storage facilities, a water and electrical transmission corridor, and additional infrastructure and ancillary facilities

EPA Region 9 has expressed our substantive concerns to the Forest Service in letters on the Preliminary Draft EIS on 7/28/11; the Draft EIS on 2/21/12; the Preliminary Final EIS on 8/15/13; and by copying Forest Supervisor Jim Upchurch on correspondence between EPA and the Corps of Engineers on 11/7/13. In these letters, as well as numerous phone calls and meetings between and since, EPA described the reasons why the project's impacts should be deemed unacceptable and the proposed mitigation inadequate. The Forest Service has spent substantial effort to address the issues that EPA has raised. The Final EIS published on 12/13/13 is a stark improvement over the Draft EIS. We greatly appreciate the work performed in response to EPA's comments. Despite these improvements, however, the Final EIS does not support a conclusion that the preferred alternative would not irreparably degrade these resources in violation of environmental standards.

EPA finds that the proposed project and all action alternatives identified in the NEPA process

would result in the fragmentation of a vast, largely intact, hydrologic landscape composed of hundreds of drainages covering many linear miles. The extraction of groundwater for pit dewatering would result in watershed-scale impacts to aquatic resources; including the degradation and likely destruction of regionally rare and ecologically invaluable perennial streams. To date, sufficient mitigation has not been proposed for these impacts, nor has data been presented to suggest that adequate mitigation is available for offsetting either the direct or indirect impacts to surface water resources from the project. Finally, the project poses a risk to surface water quality--- Given the magnitude and duration of the potential impacts of this proposed project, we believe it is environmentally unacceptable.

The enclosures to this letter include a copy of my letter referring this matter to the Chair of the Council on Environmental Quality (Enclosure 1), and a discussion, required by the Council's regulations at 40 CFR 1504.3(c)(2), of the issues leading to EPA's conclusion that the proposed project is unsatisfactory (Enclosure 2).

I am requesting that you take no action that will lead to issuance of the Rosemont Copper Mine Plan of Operations until the Council acts upon this referral. EPA wishes to bring this referral to a conclusion as soon as possible. We are available to discuss these issues with you and the Council at your convenience.

Sincerely,

Gina McCarthy
Administrator

Enclosures:

- (1) Letter of referral the Council on Environmental Quality
- (2) Detailed comments supporting EPA's "Unsatisfactory" conclusion with attachments
 - Attachment A: Site Map
 - Attachment B:.....
 - Attachment C.....
 - Attachment D.....